

David Y. Loh (DL 0460)  
COZEN O'CONNOR  
45 Broadway Atrium 16<sup>th</sup> Floor  
New York, New York 10006  
Tel: (212) 509-9400  
Fax: (212) 509-9492  
Email: [dloh@cozen.com](mailto:dloh@cozen.com)

Attorneys for Defendant  
TURKISH AIRLINES, INC.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ST. PAUL FIRE AND MARINE  
INSURANCE COMPANY as  
subrogee of VINTAGE RUGS, INC.,  
and VINTAGE RUGS, INC.;

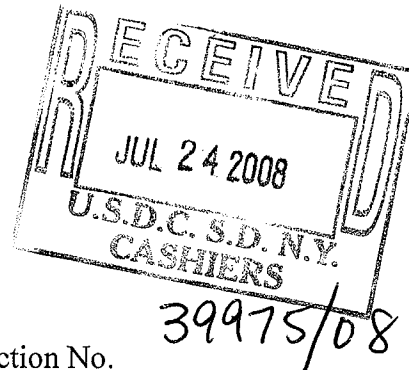
Plaintiffs,

vs.

TURKISH AIRLINES, INC.;

Defendant.  
-----X

'08 CIV 6571



Civil Action No.

**NOTICE OF REMOVAL**

2008 JUL 24 PM 1:10  
CIVIL COURT  
SPECIAL TERM  
NEW YORK COUNTY

(copy)

Defendant TURKISH AIRLINES, INC. (hereinafter referred to as "TA"), by its attorneys COZEN O'CONNOR, respectfully files this Notice of Removal pursuant to 29 U.S.C. Sec. 1441(a), and in support thereof states the following:

1. On or about June 23, 2008, plaintiffs ST. PAUL FIRE AND MARINE INSURANCE COMPANY as subrogee of VINTAGE RUGS, INC. and VINTAGE RUGS, INC. commenced an action against defendant TURKISH AIRLINES, INC. by filing a Summons with Notice in the Civil Court of the City of New York, County of New York, Index No. 2008/039975 (the "State Court Action").

2. In the State Court action, plaintiff has sued defendants alleging breach of one (1) contract of carriage, master air waybill No. 235-5536 7546 dated September 10, 2007, for damages arising from the non-delivery of one (1) parcel of wool rugs traveling from Istanbul, Turkey to JFK International Airport, Jamaica, New York.
3. In the State Court Action, plaintiff has also alleged causes of action for negligence and willful misconduct against TA.
4. Plaintiff further alleges that the cargo was lost at some point prior to delivery to the named consignee in New York.
5. The Convention for the Unification of Certain Rules for International Carriage by Air, May 28, 1999, Treaty Doc. No. 106-45, at 27 (2000), 2242 U.N.T.S. 350 (hereinafter referred to as the "Montreal Convention") (and is the successor to the Convention for the Unification of Certain Rules Relating to International Transportation by Air, Oct. 12, 1929, 49 Stat. 3000, T.S. No. 876 (1934) also known as the "Warsaw Convention") governs the duties and responsibility of the parties in this matter.
6. On or about June 27, 2008, TA first received, by service or otherwise, a copy of the Summons with Notice that was filed in the State Court Action. Specifically, said Summons with Notice was served upon the Secretary of State on June 27, 2008 pursuant to Section 306 of the Business Corporation Law.
7. A true and correct copy of the Summons with Notice is annexed hereto as Exhibit "A," and constitutes all process, pleadings, and orders served upon TA in the State Court Action.

8. Annexed hereto as Exhibit "B" is a true and correct copy of a letter dated June 27, 2008 from State of New York, Department of State, Division of Corporation and constitutes confirmation of the date of service upon TA.
9. The Southern District of New York embraces the place where the State Court Action is pending.
10. This Notice of Removal is being filed with this Court within thirty (30) days after TA first received, through service or otherwise, a copy of the initial pleading setting forth the claim for relief upon which the State Court Action is based.
11. Upon information and belief, plaintiff ST. PAUL FIRE AND MARINE INSURANCE COMPANY is organized under the laws of Minnesota with a principal place of business located at c/o Travelers, 1200 American Road, Morris Plains, NJ 07950.
12. Upon information and belief, plaintiff's subrogor, Vintage Rugs, Inc. is organized under the laws of New York with a principal place of business located at 8 East 30<sup>th</sup> Street, New York, NY 10016.
13. Defendant TURKISH AIRLINES, INC. is a foreign corporation organized under the laws of Turkey with a principal place of business located at 1400 Old Country Road, Suite 304, Westbury, New York 11590.
14. This action is an international aviation cargo dispute which is governed by the Montreal Convention. Both the United States and Turkey are signatories to the Montreal Convention.
15. Since the district courts of the United States have original jurisdiction of all civil actions arising under the Constitution, laws or treaties of the United States, this Court has jurisdiction over this action pursuant to 28 U.S.C. Sec. 1331.

16. TA, upon filing of this Notice of Removal, will, as required by 28 U.S.C. Sec. 1446(d), file a copy of the Notice of Removal with the Clerk of the Civil Court of the City of New York, County of New York, and will serve a copy of same upon plaintiff.
17. In filing this Notice of Removal, TA does not waive any defense, limitation, warranty or exception.

WHEREFORE, defendant TURKISH AIRLINES, INC. respectfully submits that this Notice of Removal complies with the statutory requirements and respectfully requests that the action now pending against it be removed from the Civil Court of the City of New York, County of New York to this Court, that this action proceed in this Court as a properly removed action, and that defendant TURKISH AIRLINES, INC. has such other and further relief as justice requires.

Dated: New York, New York  
July 23, 2008

Respectfully submitted,

COZEN O'CONNOR  
Attorneys for Defendant  
TURKISH AIRLINES, INC.

By: 

David Y. Loh (DL 0460)  
45 Broadway Atrium, 16<sup>th</sup> Floor  
New York, New York 10006-3792  
Tel.: (212) 509-9400  
Fax: (212) 509-9492  
Email: [dloh@cozen.com](mailto:dloh@cozen.com)

## EXHIBIT A



B 268—Summons: Civil Court: endorsed summons or annexed complaint.  
Uniform Rules, 22 NYCRR 208.6(b), 8-88

3040

JULIUS BLUMBERG, INC.  
PUBLISHER, NYC 10013

CIVIL COURT OF THE CITY OF NEW YORK,  
COUNTY OF NEW YORK

FILE COPY

ST PAUL FIRE AND MARINE INSURANCE  
COMPANY as subrogee of VINTAGE RUGS INC.,  
And VINTAGE RUGS INC.,

Plaintiff(s)

against

TURKISH AIRLINES, INC.,

Defendant(s)

Index No.

Summons

039975 2008

Plaintiff's Residence Vintage Rugs  
Address: 8 E. 30th Street  
New York, NY 10016

The basis of the venue designated is:  
Plaintiff's residence

To the above named defendant(s).

You are hereby summoned to appear in the Civil Court of the City of New York,  
County of New York at the office of the said Court at 111 Centre Street

in the County of New York City and State of New York, within the time provided by law as  
noted below and to file your answer to the—endorsed summons—annexed complaint\*—with the Clerk: upon  
your failure to answer, judgment will be taken against you for the sum of \$ 25,000.00 with interest  
thereon from the 10th day of September 20 07 together with the costs of this action.

Dated, June 19, 2008

AGUS &amp; PARTNERS, P.C.

Defendant's Address:

Attorney(s) for Plaintiff

c/o Secretary of State of New York

Post Office Address and Telephone Number

28 West 44<sup>th</sup> Street, Suite 214  
New York, New York 10036  
(212) 376-5757

NOTE: The law provides that: (a) If this summons is served by its delivery to you personally within the City of New York, you must appear  
and answer within TWENTY days after such service; or

(b) If this summons is served by delivery to any person other than you personally, or is served outside the City of New York, or by  
publication, or by any means other than personal delivery to you within the City of New York, you are allowed THIRTY days after proof of  
service thereof is filed with the Clerk of this Court within which to appear and answer.

\* If the cause of action is for money only and a formal complaint is not attached to the summons, strike the words "annexed  
complaint". If a formal complaint is attached to the summons, strike the words "endorsed summons".

### ENDORSED COMPLAINT

A statement of the nature and substance of the plaintiff's cause of action is as follows:

1. Breach of contract of common carriage and bailment in connection with a shipment by air of wool  
carpets from Istanbul, Turkey to New York under Air Waybill 235 5536 7546 dated September 10, 2007 which  
defendant accepted and agreed to transport but failed to deliver, to plaintiff's/plaintiff's subrogor's loss in the  
sum of \$25,000.00 as nearly as may now be determined, none of which has been paid though demanded.

2. Negligence as per No. 1 above.

3. Willful misconduct on the part of defendant as per No. 1 above.

FILED

JUN 23 2008

NEW YORK COUNTY  
CIVIL COURT

AGUS &amp; PARTNERS, P.C.

Attorney(s) for Plaintiff

By:

Stephen A. Agus, Esq.

Attorney(s) for Plaintiff(s)

STATE OF NEW YORK, COUNTY OF

SS:

The undersigned, being duly sworn, deposes and says; deponent

is not a party herein, is over 18 years of age and resides at

That on 19 at M., at

deponent served the within summons, and complaint on

defendant therein named,

INDIVIDUAL

1. ☐

by delivering a true copy of each to said defendant personally; deponent knew the person so served to be the person described as said defendant therein.

CORPORATION

2. ☐

a corporation, by delivering thereat a true copy of each to

personally, deponent knew said corporation so served to be the corporation described in said summons as said defendant and knew said individual to be thereof.

SUITABLE  
AGE PERSON3. ☐

by delivering thereat a true copy of each to

a person of suitable

age and discretion: Said premises is defendant's—actual place of business—dwelling place—usual place of abode—within the state.

AFFIXING TO  
DOOR, ETC.4. ☐

by affixing a true copy of each to the door of said premises, which is defendant's—actual place of business—dwelling place—usual place of abode—within the state. Deponent was unable, with due diligence to find defendant or a person of suitable age and discretion thereat, having called there

MAILING TO  
RESIDENCE  
USE WITH 3 OR 4SA. ☐

Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a postpaid envelope properly addressed to defendant at defendant's last known residence, at

MAILING TO  
BUSINESS  
USE WITH 3 OR 4SB. ☐

and deposited said envelope in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State.

Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a first class postpaid envelope properly addressed to defendant's actual place of business, at

in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "Personal and Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the defendant.

DESCRIPTION  
USE WITH  
1, 2, or 3☐ Male  
☐ Female☐ White Skin  
☐ Black Skin  
☐ Yellow Skin  
☐ Brown Skin  
☐ Red Skin☐ Black Hair  
☐ Brown Hair  
☐ Blonde Hair  
☐ Gray Hair  
☐ Red Hair☐ White Hair  
☐ Balding  
☐ Mustache  
☐ Beard  
☐ Glasses☐ 14-20 Yrs.☐ 21-35 Yrs.☐ 36-50 Yrs.☐ 51-65 Yrs.☐ Over 65 Yrs.☐ Under 5'☐ 5'0"-5'3"☐ 5'4"-5'8"☐ 5'9"-6'0"☐ Over 6'☐ Under 100 Lbs.☐ 100-130 Lbs.☐ 131-160 Lbs.☐ 161-200 Lbs.☐ Over 200 Lbs.

Other identifying features:

Sworn to before me on

19

Print name beneath signature

LICENSE NO.

Index No.

Civil Court of the City of New York  
County of New YorkSt Paul Fire and Marine Insurance  
Company as subrogee of Vintage  
Rugs Incc, and Vintage Rugs Inc.  
Plaintiff(s)

against

Turkish Airlines, Inc.

Defendant(s)

**Summons**Action not based  
upon a Consumer Credit TransactionAGUS & PARTNERS, P.C.  
Attorney(s) for Plaintiff(s)

Post Office Address

28 West 44th Street, Suite 214  
New York, New York 10036  
(212) 376-5757

## EXHIBIT B



State of New York - Department of State  
Division of Corporations

Party Served:  
TURKISH AIRLINES, INC.

Plaintiff/Petitioner:  
ST PAUL FIRE AND MARINE  
INSURANCE COMPANY

ROBINSON SILVERMAN  
ATTN: ANDREW L. ODELL, ESQ.  
1290 AVENUE OF AMERICAS 30 FL  
NEW YORK, NY 10104

Dear Sir/Madam:

Enclosed herewith is a legal document which was served upon the Secretary of State on 06/27/2008 pursuant to SECTION 306 OF THE BUSINESS CORPORATION LAW.

This copy is being transmitted pursuant to such statute to the address provided for such purpose.

Very truly yours,  
Division of Corporations

David Y. Loh (DL 0460)  
COZEN O'CONNOR  
45 Broadway Atrium 16<sup>th</sup> Floor  
New York, New York 10006  
Tel: (212) 509-9400  
Fax: (212) 509-9492  
Email: [dloh@cozen.com](mailto:dloh@cozen.com)  
Attorneys for Defendant  
TURKISH AIRLINES, INC.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ST. PAUL FIRE AND MARINE : Civil Action No. 08-cv-6571  
INSURANCE COMPANY as :  
subrogee of VINTAGE RUGS, INC., :  
and VINTAGE RUGS, INC.; :  
Plaintiffs, :  
vs. :  
TURKISH AIRLINES, INC.; :  
Defendant. :  
-----X

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF NEW YORK )

Esther Goldschlager, being duly sworn, deposes and says:

I am not a party to this action, am over 18 years of age, and reside in New York, New York. On July 24, 2008, I served the within **Notice of Removal** by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the United States Postal Service, addressed to the following counsel at the addresses set forth below:

Stephen A. Agus, Esq.  
Attorney for Plaintiffs  
28 West 44<sup>th</sup> Street, Suite 214  
New York, New York 10036

  
\_\_\_\_\_  
Esther Goldschlager

Sworn to before me this 24th day  
of July, 2008.

  
\_\_\_\_\_  
Notary Public

**CHRISTOPHER RALEIGH**  
Notary Public, State of New York  
No. 02RA4800776  
Qualified in New York County  
Commission Expires August 10, 2010